IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.438 OF 2006

Mr Noor Mohd. Shah ...Applicant

v/s

M/s Parshwa Corporation and anr. ...Respondents

Mr M.J. Pabari for Applicant.

Mr S.S. Pednekar, A.P.P. for Respondents.

CORAM : S.C. DHARMADHIKARI J.

DATE : 17TH NOVEMBER 2006.

P.C. :-

1. Heard learned Advocate appearing for the applicant. Perused the orders passed by the Courts below.

2. The only contention raised by the applicant before me is that the presumption under sections 138 and 139 of the Negotiable Instruments Act stands rebutted by the material which was placed before the Trial Court.

3. The Trial Court has taken into consideration all these contentions and has specifically observed that the presumption has not been rebutted by the applicant accused. The applicant accused has clearly admitted that there was a transaction and the goods were received, the cheques were signed. The Courts below have taken note of the pleas of the accused recorded in section 313 statement. Further, the Courts below have also considered the evidence on record including that of the wife of the original complainant. The Courts below were right, in my opinion, in arriving at the conclusion that in facts and circumstances of the present case, a stray admission statement in the deposition of the witness (wife of the original complainant) would not be sufficient to rebut the presumption raised by law.

4. Revisional jurisdiction is not to be utilised for reappreciation and reappraisal of the materials placed before the Courts below. The submission of the learned Advocate would call upon me to undertake such an exercise. That being clearly impermissible and even otherwise I find that the Courts below have recorded findings of facts consistent with the materials placed before them which are binding upon this Court, this is not a fit case to interfere under revisional jurisdiction. Revision application stands dismissed.